

### REMARKS

This paper responds to the Office Action dated May 28, 2003.

**Rejections as to form.** The Examiner rejects claims 37-42, 44 and 52-54 as supposedly rendered indefinite due to supposed defects in claims 38, 40, 44 and 52-54.

**Claims 37, 39 and 41.** It is noted at the outset that the undersigned does not understand how any defect in claims 38, 40, 44 and 52-54 could possibly give rise to grounds for rejection of claims 37, 39, and 41. None of claims 37, 39 or 41 depend from any of the supposedly defective claims 38, 40, 44 and 52-54. It is requested that the rejections as to form of claims 37, 39 and 41 be withdrawn unless the Examiner explains how they are supposedly indefinite.

**Claims 38, 40, 44 and 52-54.** The Examiner asserts that each of these claims is unclear as to how it limits the claim from which it depends. Each of these claims has been amended so as to more particularly set forth the claimed invention. It is suggested that to the extent there was any lack of clarity as to how each of these claims limits the claim from which it depends, the amendments remedy this problem. Reconsideration is requested.

**Rejections over a cited reference.** The Examiner rejects all pending claims as supposedly anticipated or obvious. Some claims are rejected as supposedly anticipated or obvious in view of a single reference US Pat. No. 5,092,528 to Rudibaugh ("Rudibaugh"). The remaining claims are rejected as supposedly obvious in view of a two-way combination of Rudibaugh and US Pat. No. 6,382,539 to Gülke ("Gülke").

**Claims 37-38 and 40-41.** The Examiner is of the view that these claims are anticipated by Rudibaugh.

It may be helpful to discuss Rudibaugh in some detail. Rudibaugh discloses a grinding machine which comprises, in the direction of the flow of the material, a blade 38, a perforated plate 23, and a rotating discharge unit 25. Thus, the perforated plate, even though situated downstream of the blade, is not a safety device. The reason that it is not a safety device is that an operator can become injured by the rotating discharge unit 25, for example by sticking a finger into the outlet 26.

As a matter of terminology, in contrast, the present application makes clear at page 1 (last paragraph) that a safety device means a component that can be integrated into the set of cutters and that permanently prevents the operator from sustaining finger injuries.

As mentioned above, the perforated plate of Rudibaugh does not, in fact, permanently prevent the injury of fingers. As such, the claimed invention of claim 37 is novel. Each of the claims depending from claim 37 is thus likewise novel.

Turning to claim 38, there is a limitation that the grinding machine cannot be put into operation if the perforated plate is absent. Applicant is unable to find even one word to this effect in Rudibaugh.

Turning to claims 40 and 41, there is a limitation in which the thickness of the perforated plate has an effect upon whether or not the grinding machine may be put into operation. Applicant is unable to find anything in Rudibaugh that would bring about such a result.

**Claims 39 and 42.** The Examiner is of the view that these claims are rendered obvious by Rudibaugh.

It is important also to consider why the claimed invention is unobvious. It is to be considered that according to the claimed invention, nothing is said about the thickness of the plate being selected according to the material being treated or according to a desired maintenance costs. Instead, it is designed so as to avoid that finger injuries occur. Nowhere has the Examiner explained how it would be obvious to select a perforated plate with holes that do not extend a certain diameter and with a minimum thickness, with the aim of avoiding finger injuries.

Claim 42, for example, is limited in that the safety device is integrated into a lock nut. The Examiner has not pointed to any place in any reference where such a limitation is hinted or suggested. To the extent that the Examiner is of the view that it is somehow obvious to provide such a limitation, applicant's attorney disagrees with this view, and motivated by the case of *In Re Ahlert and Kruger*, 165 USPQ 418 (CCPA 1970) applicant's attorney hereby challenges this view and asks whether the Examiner can show support for this view.

**Claims 43-64.** The Examiner is of the view that these claims are rendered obvious by a two-way combination of Rudibaugh and US Pat. No. 6,382,539 to Gülke.

It should be appreciated that it is not enough, to render a claimed invention obvious, to provide any arbitrary sensor chip. It would be necessary to provide, or to motivate providing, a sensor chip of the particular type appearing in the claim limitation. In the claimed invention the sensor chip is limited with some particularity — in one claim storing information about thickness, in another claim providing an identification of the plate, and so on. Applicant is unable to find, in Gülke, any hint of such limitations regarding a sensor chip.

Nor does Gülke seem to provide any motivation for the limitations of the claims, namely the motivation of identifying the plate and avoiding the machine being able to start if the plate is absent, so as to avoid injuries.

Absent any such limitations in Gülke, absent any hint of such limitations in Gülke, absent any

indication of such motivations in Gülke, it is suggested that Gülke cannot possibly render the claimed invention obvious.

Reconsideration is requested.

Respectfully submitted,



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